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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,421	01/18/2002	John E. Sims	3086-A	6827
22932	7590	08/12/2005	EXAMINER	
IMMUNEX CORPORATION LAW DEPARTMENT 1201 AMGEN COURT WEST SEATTLE, WA 98119			JIANG, DONG	
			ART UNIT	PAPER NUMBER
			1646	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/981,421	<b>Applicant(s)</b> SIMS ET AL.	
	<b>Examiner</b> Dong Jiang	<b>Art Unit</b> 1646	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) 2,3 and 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6,7 and 9-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-3 and 6-15 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |



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### **DETAILED OFFICE ACTION**

Applicant's response filed on 02 June 2005 is acknowledged.

Currently, claims 1-3 and 6-15 are pending, and claims 1, 6, 7 and 9-15 are under consideration.

#### **Withdrawal of Objections and Rejections:**

The scope of enablement rejection of claims 1, 6, 7 and 9-15 under 35 U.S.C. 112, first paragraph is withdrawn in view of applicant's argument and the references presented.

The prior art rejection of claims 1, 6, 9-12, 14 and 15 under 35 U.S.C. 103(a) as being unpatentable over Ahdel-Meguid et al. (US6,706,487 B1), and in view of Torigoe et al. (US6,600,022 B1) is withdrawn in view of applicant's argument that the Ahdel-Meguid reference is a US patent resulted from an International application filed March 17, 2000, and thus the patent is effective as prior art in accordance with Section 102(e) that was in effect on 28 November, 2000, and that the 102(e) date is August 31, 2001.

The prior art rejection of claim 7 under 35 U.S.C. 103(a) as being unpatentable over Ahdel-Meguid et al. (US6,706,487 B1), and in view of Torigoe et al. (US6,600,022 B1), and Huston et al. (Proc. Natl. Acad. Sci., 1988, 85(16):5879-83) is withdrawn in view of applicant's argument.

The prior art rejection of claim 13 under 35 U.S.C. 103(a) as being unpatentable over Ahdel-Meguid et al. (US6,706,487 B1), and in view of Torigoe et al. (US6,600,022 B1), and Jacobs et al. (US5,605,690) is withdrawn in view of applicant's argument.

#### **Rejections Over Prior Art:**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 6, 9-12, 14 and 15, are rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al., WO 00/56711 (28 September 2000), and in view of Torigoe et al., US6,600,022 B1, for the same reasons addressed in the prior art rejection of the same claims under 35 U.S.C. 103(a) as being unpatentable over Ahdel-Meguid et al., US6,706,487 B1, and in view of Torigoe et al., US6,600,022 B1, set forth in the last Office Action mailed on December 3, 2004, on pages 4-5, because the teachings of Ho et al., WO 00/56711 is identical to that of Ahdel-Meguid et al., US6,706,487 B1.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al., WO 00/56711 (28 September 2000), and in view of Torigoe et al., US6,600,022 B1, as applied to claims 1, 6, 9-12, 14 and 15 above, and further in view of Huston et al. (Proc. Natl. Acad. Sci., 1988, 85(16):5879-83), for the same reasons addressed in the prior art rejection of the same claim under 35 U.S.C. 103(a) as being unpatentable over Ahdel-Meguid et al., US6,706,487 B1, and in view of Torigoe et al., US6,600,022 B1, and Huston et al. (Proc. Natl. Acad. Sci., 1988, 85(16):5879-83), set forth in the last Office Action mailed on December 3, 2004, on page 6, because the teachings of Ho et al., WO 00/56711 is identical to that of Ahdel-Meguid et al., US6,706,487 B1.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho et al., WO 00/56711 (28 September 2000), and in view of Torigoe et al., US6,600,022 B1, as applied to claims 1, 6, 9-12, 14 and 15 above, and further in view of Jacobs et al., US5,605,690, for the same reasons addressed in the prior art rejection of the same claim under 35 U.S.C. 103(a) as

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being unpatentable over Ahdel-Meguid et al., US6,706,487 B1, and in view of Torigoe et al., US6,600,022 B1, and Jacobs et al., US5,605,690, set forth in the last Office Action mailed on December 3, 2004, on pages 6-7, because the teachings of Ho et al., WO 00/56711 is identical to that of Ahdel-Meguid et al., US6,706,487 B1.

**Conclusion:**


No claim is allowed.

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**Advisory Information:**

Any inquiry concerning this communication should be directed to Dong Jiang whose telephone number is 571-272-0872. The examiner can normally be reached on Monday - Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached on 571-272-0829. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
**BRENDA BRUMBACK**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1600**

Dong Jiang, Ph.D.  
Patent Examiner  
AU1646  
8/2/05